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PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	:	Before the Examiner:
Kimberly L. Gajda et al.	:	Nguyen, Merilyn P.
Serial No.: 09/934,887	:	Group Art Unit: 2171
Filed: August 22, 2001	:	
Title: TOOL FOR CONVERTING	:	IBM Corporation
SQL QUERIES INTO	:	P.O. Box 12195
PORTABLE ODBC	:	Dept. T81/503
	:	Research Triangle Park, NC 27709

**DECLARATION UNDER 37 C.F.R. § 1.131**  
**OF INVENTORS THORPE, HESS AND GAJDA**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

We, Robert T. Thorpe, Bradley A. Hess and Kimberly L. Gajda, declare on the basis of personal knowledge as follows:

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**CERTIFICATION UNDER 37 C.F.R. § 1.8**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on May 4, 2004.

Signature

Serena Beller

(Printed name of person certifying)

1. We are the joint inventors of the subject matter of the present U.S. patent application, Serial No. 09/934,887, entitled "Tool for Converting SQL Queries into Portable ODBC" filed on August 22, 2001.

2. We have been informed that in the present application, all the claims have been rejected based on a reference to Copeland (U.S. Publication No. 2003/0046673) "Linktime Recognition of Alternative Implementations of Programmed Functionality," with a priority date of June 29, 2001.

3. As set out in detail below in paragraphs 5-6, we conceived the subject matter claimed in the present invention within the United States before June 29, 2001.

4. As set out in detail below in paragraphs 7-12, since a date earlier than June 29, 2001, we diligently pursued reduction to practice of the invention through at least August 22, 2001.

#### CONCEPTION

5. Exhibit A attached hereto demonstrates conception of the invention prior to June 29, 2001. Exhibit A is a true copy of the disclosure of the present invention submitted to International Business Machines, Inc. ("IBM") (portions including the dates are redacted).

6. Exhibit A shows that the above-named joint inventors conceived a method for converting Structure Queried Language (SQL) queries into an Open Database Connectivity (ODBC) standard, comprising the steps of: (a) parsing a source code to identify one or more keywords, (b) identifying an SQL statement based on the one or more keywords, (c) matching the SQL statement with a function where the function is associated with one or more ODBC calls and (d) substituting the SQL statement with a

call to the function. More specifically, page 1 of Exhibit A illustrates the idea of parsing source code to identify keywords. Page 1 of Exhibit A states "DB2Trans will parse \*.sql files, containing Oracle Pro C embedded SQL syntax and produce code that when compiled will make proper calls to the DBAccess module. The following classes are defined: SmartIn: This manages the input file, which will be the Oracle \*.sql file containing the embedded Pro C SQL calls." Furthermore, pages 1-2 of Exhibit A illustrate the idea of identifying an SQL statement based on the one or more keywords. More specifically, pages 1-2 of Exhibit A states "A method should be added, called read SQLstmt, that should read one or more lines until the ';' is encountered. This is because most EXEC SQL statements span multiple lines within the editor (CR/LFs embedded) but DB2Trans will just deal with and parse the EXEC SQL statement as one entity. There should be one public member which is the 'String inputStatement'. 'InputStatement' will be passed to Statement class for parsing and processing." Furthermore, pages 2-4 of Exhibit A illustrate the idea of matching an SQL statement with a function where the function is associated with one or more ODBC calls. For example, page 4 of Exhibit A states "sqlcode=DBAEndSelect (&hstmt); /\* This statement is called when an EXEC SQL CLOSE CURSOR is encountered. \*/" Furthermore, page 2 of Exhibit A illustrates the idea of substituting the SQL statement with a call to the function. More specifically, page 2 of Exhibit A states "SmartOut: This manages the output file, which will be the \*.c file incorporating business logic with calls to DBAccess for access to a relational database via ODBC." Further, page 2 of Exhibit A states "DBAccess.c will be a single standard ANSI C module with multiple functions. All DB2 CLI calls will be contained within this module."

REDUCTION TO PRACTICE

7. On information and belief, at least one of the above-named inventors was working diligently by telephone and/or facsimile contact with the patent attorney, Robert A. Voigt, Jr., who was preparing the present application between at least as early as June 29, 2001 and August 6, 2001.

8. Exhibit B attached hereto is a declaration from Robert A. Voigt, Jr., an attorney at Winstead Sechrest & Minick P.C., that he was preparing the present application between at least as early June 29, 2001 and August 6, 2001 in his due course of business.

9. Exhibit C attached hereto is a true copy of a fax cover sheet sent to inventor Robert T. Thorpe from Robert A. Voigt, Jr. Exhibit C indicates that a draft of the above-identified patent application was sent to Robert T. Thorpe to be reviewed on July 11, 2001.

10. Exhibit D attached hereto is a true copy of a fax cover sheet sent to inventor Robert T. Thorpe from Robert A. Voigt, Jr. Exhibit D indicates that a revised draft of the above-identified patent application was sent to Robert T. Thorpe to be reviewed on July 27, 2001.

11. Exhibit E attached hereto is a true copy of a letter sent from Kelly K. Kordzik, an attorney at Winstead Sechrest & Minick P.C., to John Schelkopf, an attorney at IBM, on August 6, 2001. Exhibit E indicates that a final version of the above-identified patent application was sent to IBM on August 6, 2001.

12. On information and belief, the above-identified patent application was reviewed and evaluated through IBM's normal patent review and evaluation process from

**RPS920010058US1**

**PATENT**

August 6, 2001 until the filing date of the above-identified application, which was on August 22, 2001.

# PATENT

Robert T. Thorpe  
Robert T. Thorpe

Date 5/4/2004

Date \_\_\_\_\_

*Kimberly L. Gajda*  
Kimberly L. Gajda

Date 5/4/2004

-6-

RPS920010058US1

PATENT

13. As below named inventors, we hereby declare that all statements made herein of our knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Robert T. Thorpe

Date

*Bradley A. Hess*

Bradley A. Hess

*4/27/2004*

Date

Kimberly L. Gajda

Date

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